

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Nicholas Franklin,)	CASE NO. 1:21 CV814
)	
Petitioner,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
LaShann Eppinger, Warden,)	<u>Memorandum of Opinion and Order</u>
)	
Respondent.)	

Introduction

This matter is before the Court upon the Report and Recommendation of Magistrate Judge James E. Grimes, Jr. (Doc. 12) which recommends denial of the Petition for Writ of Habeas Corpus pending before the Court. Petitioner did not file objections. For the following reasons, the Report and Recommendation is ACCEPTED.

Standard of Review

Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts provides, “The judge must determine *de novo* any proposed finding or recommendation to which objection is made. The judge may accept, reject, or modify any proposed finding or recommendation.” When no objections have been filed this Court need only satisfy itself that

there is no clear error on the face of the record in order to accept the recommendation. *See* Advisory Committee Notes 1983 Addition to Federal Rule of Civil Procedure 72.

Discussion

Petitioner, Nicholas Franklin, commenced this action with the filing of a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Magistrate Judge issued his Report and Recommendation recommending that the Petition be denied. Petitioner has failed to file objections to the Report and Recommendation.

Petitioner entered a plea of guilty to involuntary manslaughter and aggravated burglary in the Cuyahoga County Common Pleas Court in 2018. He was sentenced to an aggregate prison term of 18 years. The Petition sets forth four grounds for relief. The Magistrate Judge found a portion of Ground One to be non-cognizable and the remainder to fail on the merits. The Magistrate Judge concluded that Grounds Two, Three, and Four were procedurally defaulted. Nor was there cause to excuse the default or an assertion of innocence. No objections were made to the findings. This Court has reviewed the Report and Recommendation and fully agrees with the reasoning and conclusions of the Magistrate Judge. Having found no clear error, the Court completely adopts the factual and legal conclusions as its own and incorporates them herein by reference. Accordingly, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the Petition for Writ of Habeas Corpus is denied.

Conclusion

For the foregoing reasons, the Report and Recommendation is accepted. Furthermore, the Court declines to issue a certificate of appealability. 28 U.S.C. § 2253(c). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good

faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Court
Chief Judge

Dated: 5/30/23